

## **Question**

What are the basic premises and what is the legal framework with regard to working through the holiday period?

## **Legal framework**

The total number of hours of holiday leave is calculated according to the number of net working hours of 1659 hours on an annual basis, as well as the manner in which the staff member organises his or her working week and the scope of his or her weekly schedule. Pursuant to Article J-8 paragraphs 1 and 2 of the Higher Professional Education Collective Labour Agreement, Avans will approve a staff member's request for holiday leave unless there are compelling reasons for not doing so. If an application is not approved, Avans will provide the staff member with a duly substantiated written rejection notice within two weeks. Avans and the staff member enter into mutual consultation to make agreements regarding the possibility of taking sufficient leave each year. Leave that has not been taken in the interests of Avans may be carried over to the next year. Pursuant to the law (Book 7 Article 638 of the Dutch Civil Code), an employer may – for compelling reasons – make changes to the period during which a staff member takes up his or her holiday leave, subject to mutual consultation. Avans shall compensate the staff member for any loss<sup>[1]</sup> suffered by the staff member as a result of changes made to a period of holiday leave. Any days in excess of the statutory entitlement may be paid out on the basis of written agreements pursuant to Book 7 Article 640(2) of the Netherlands Civil Code, if these days were not taken up.

## **Staff members and working during the holidays**

The employer and staff member shall ensure that sufficient opportunity is offered and/or taken for taking up the holiday leave to which the staff member is entitled during the relevant year. Every school's School Board or unit should clearly inform its staff of the available options. Most organisational units have made clear agreements stating that their staff will take up their holiday leave during periods with little or no teaching activity.

The summer holiday (until the start of the new academic year, Week 0) is an important period for rest and reflection. Some organisational units will start the new academic year in Week -1 this year, e.g. in connection with tests and exams or the larger number of graduation assessments and sessions this year which will be taking place during this week. The same basic principles apply as those for taking up of hours of holiday leave in general:

- Agreements on taking up hours of holiday leave must be made within a staff member's team and with his or her supervisor. This is always done in consultation.
- By the end of 2020, each staff member will have taken up at least 90% of his or her hours of holiday leave, unless explicitly agreed otherwise between the staff member and supervisor.

Principally speaking, staff members will only be working during the opening hours of the Avans buildings. Avans University of Applied Sciences is entitled to ask its staff members to return to work earlier, subject to the conditions imposed by Dutch legislation and taking into consideration the well-being of the staff members. Before the summer holiday, the management of the school or unit

is advised to explicitly take stock of which staff members are on holiday at home or abroad (i.e. who have already booked a holiday) and which staff members are planning to do so. This is needed to get an idea of who is available and willing to start earlier, if necessary.

### **Staff members and working in the evening**

There may be some changes in regard of working hours due to the timeslots that can be allocated for classroom teaching on campus. Avans University of Applied Sciences is entitled to ask its staff members to work in the evenings. Of course, this is subject to the conditions imposed by Dutch legislation and taking into consideration the well-being of the staff members. Principally speaking, staff members will only be working during the opening hours of the Avans buildings. Therefore, these changes will be based on regular 8 or 9-hour working days, with an occasional extension to 10 working hours a day. However, this will require some coordination with our staff members. Although it is up to the employer to decide on the working hours of its staff members, it is not possible to make changes like these unilaterally from one moment to the next. This is why we have a strong preference for doing this in mutual consultation and recommend that staff members turn to the HR adviser for advice and support in regard of this to ensure that all agreements are tailored to individual needs and continually monitored on compliance with the relevant provisions. For staff members in salary scale 10 and below supplementary conditions apply with regard to the payment of salary (supplementary compensation in addition to the hourly wages) and restrictions have been set down in the CLA that apply to working in the evening for staff members aged 50 and above (no more than two evenings a week).

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<sup>[1]</sup> Loss that should reasonably be compensated by the employer as a direct consequence of withdrawing a holiday (at home or abroad) include the cost of making changes to or cancelling a holiday that was already booked.